

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**ANGELA HERNANDEZ,**

**Plaintiff,**

**v.**

**AMICA MUTUAL INSURANCE  
COMPANY,**

**Defendant.**

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**CIVIL ACTION NO. \_\_\_\_\_**

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**NOTICE OF REMOVAL**

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TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to 28 U.S.C. §1441(a), §1446(a) and 28 U.S.C. § 1332(a), Defendant, Amica Mutual Insurance Company, submits this Notice of Removal and shows the Court as follows:

**I.**  
**INTRODUCTION**

1.1 Plaintiff is Angela Hernandez (hereinafter “Plaintiff”); Defendant is Amica Mutual Insurance Company (hereinafter “Defendant”).

1.2 On or about August 25, 2016, Plaintiff filed suit against Defendant, styled Cause No. DC-16-10473; *Angela Hernandez v. Amica Mutual Insurance Company*, pending in the 298<sup>th</sup> District Court, Dallas County, Texas, in which she seeks a declaratory judgment regarding her rights under an insurance policy issued to her by Defendant, arising out of an alleged motor vehicle accident that occurred on November 17, 2014, in Dallas County, Texas, involving an alleged underinsured motorist. Subsequently, Defendant filed its Original Answer on September 20, 2016, in which it generally denied each and every allegation contained in Plaintiff’s Original Petition.

1.3 This removal is timely filed. The case stated by the initial pleading was not removable as it did not include any jurisdictional or citizenship statement regarding Plaintiff Angela Hernandez. As such, Defendant requested confirmation that Plaintiff was a Texas citizen in order to meet the requirements of 28 U.S.C. § 1332(a). Defendant received “other paper,” from which Defendant was able to ascertain that the case was removable. *See 28 U.S.C. § 1446(b)(3)*. An email from Plaintiff counsel identifying Plaintiff as a Texas citizen and resident. *See Exhibit “1,” attached hereto*. Because of this email correspondence and the silence of the Petition regarding Plaintiff’s citizenship, this removal is timely filed within thirty (30) days of receipt of “other paper” that allowed Defendant to ascertain that this case was removable. This removal is also filed less than one year after the commencement of the action pursuant to 28 U.S.C. § 1446(c).

## II. **BASIS FOR REMOVAL**

2.1 Removal is proper because there is complete diversity between the parties. 28 U.S.C. §1332(a); *Johnson v. Columbia Props. Anchorage, L.P.*, 437 F.3d 894, 899-900 (9th Cir. 2006). Plaintiff is a citizen of the State of Texas. Defendant is a Rhode Island corporation, with its principal place of business in Rhode Island. Additionally, the amount in controversy exceeds \$75,000.00, excluding interest and costs. 28 U.S.C. §1332(a); *Andrews v. E.I. du Pont de Nemours & Co.*, 447 F.3d 510, 514-15 (7th Cir. 2006). Based upon the claims asserted by Plaintiff in her Original Petition, it is believed, and Plaintiff explicitly alleges, that the amount in controversy exceeds \$200,000, excluding interest, costs, and attorney fees. Plaintiff seeks a declaration from this Court on a contract with a policy limit of \$250,000.00. Therefore, the

amount in controversy is the contract value. *Farkas v. GMAC Mortgage, LLC*, 737 F.3d 338, 341 (5<sup>th</sup> Cir. 2013).

2.2 All pleadings, process, orders, and other filings in the state court action are attached to this notice as Exhibit “2” for all purposes herein as required by 28 U.S.C. §1446(a).

2.3 Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the action has been pending is located in this district.

2.4 Defendant will promptly file a copy of this Notice of Removal with the clerk of the state court where the action has been pending.

### III.

#### **JURY DEMAND**

3.1 Plaintiff demanded a jury in the state court action.

WHEREFORE, as there is complete diversity between the parties and an amount in controversy exceeding \$75,000.00, Defendant Amica Mutual Insurance Company respectfully requests the Court to remove the suit to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted this 10th day of October, 2016.

/s/ Michael Shane O'Dell

**MICHAEL SHANE O'DELL**

State Bar No. 24065835

Naman, Howell, Smith & Lee, PLLC

Fort Worth Club Building

306 West 7th Street, Suite 405

Fort Worth, Texas 76102-4911

Telephone: (817) 509-2040

Facsimile: (817) 509-2060

E-mail: sodell@namanhowell.com

**ATTORNEY FOR DEFENDANT,  
AMICA MUTUAL INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the above and foregoing was served upon all counsel of record as indicated below, via Certified Mail, Return Receipt Requested, in accordance with the Federal Rules of Civil Procedure, on the 10<sup>th</sup> day of October, 2016:

***Via CMRRR***

Scott B. Frenkel  
Dave Adest  
Frenkel & Frenkel, L.L.P  
12700 Park Central Drive  
Suite 1900  
Dallas, Texas 75251-1508

/s/Michael Shane O'Dell

**MICHAEL SHANE O'DELL**

## **EXHIBIT “1”**

**Shane O'Dell**

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**From:** Dave Adest <dave@frenkelfirm.com>  
**Sent:** Monday, October 10, 2016 2:13 PM  
**To:** Shane O'Dell  
**Subject:** RE: Cause No. DC-16-18473/Hernandez v. Amica Mutual Insurance Company

She was born in Greenville, Texas and lives in Plano, Texas.

**Dave Adest**

FRENKEL & FRENKEL, L.L.P.  
12700 Park Central Drive, Suite 1900  
Dallas, Texas 75251-1508  
(214) 333-3333  
(817) 222-2222  
(800) 834-0000  
(214) 265-9360 [TELECOPIER]  
[www.FrenkelFirm.com](http://www.FrenkelFirm.com)

---

**From:** Shane O'Dell [<mailto:sodell@namanhowell.com>]  
**Sent:** Monday, October 10, 2016 11:36 AM  
**To:** 'Dave Adest'  
**Subject:** RE: Cause No. DC-16-18473/Hernandez v. Amica Mutual Insurance Company

Your petition did not include a jurisdictional statement regarding Ms. Hernandez's residency or citizenship. I just need to confirm that she is a Texas citizen and resident since there was no indication in the Petition.

Shane O'Dell  
Naman Howell Smith & Lee, PLLC  
Fort Worth Club Building  
306 West 7th Street, Suite 405  
Fort Worth, Texas 76102-4911  
(817) 509-2025 (main)  
(817) 509-2044 (direct)  
(817) 509-2060 (fax)  
[sodell@namanhowell.com](mailto:sodell@namanhowell.com)



Austin | Fort Worth | San Antonio | Waco

---

**From:** Dave Adest [<mailto:dave@frenkelfirm.com>]  
**Sent:** Monday, October 10, 2016 11:14 AM  
**To:** Shane O'Dell  
**Subject:** RE: Cause No. DC-16-18473/Hernandez v. Amica Mutual Insurance Company

Mr. O'Dell,  
Are you asking if she is a Texas resident or if she is a legal citizen in the United States?

**Dave Adest**

FRENKEL & FRENKEL, L.L.P.  
12700 Park Central Drive, Suite 1900  
Dallas, Texas 75251-1508  
(214) 333-3333  
(817) 222-2222  
(800) 834-0000  
(214) 265-9360 [TELECOPIER]  
[www.FrenkelFirm.com](http://www.FrenkelFirm.com)

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**From:** Shane O'Dell [<mailto:sodell@namanhowell.com>]  
**Sent:** Friday, October 07, 2016 3:59 PM  
**To:** 'dave@frenkelfirm.com'  
**Subject:** Cause No. DC-16-18473/Hernandez v. Amica Mutual Insurance Company

Dave,

Please confirm that Ms. Hernandez is a citizen of the State of Texas.

Thank you,

Shane O'Dell  
Naman Howell Smith & Lee, PLLC  
Fort Worth Club Building  
306 West 7th Street, Suite 405  
Fort Worth, Texas 76102-4911  
(817) 509-2025 (main)  
(817) 509-2044 (direct)  
(817) 509-2060 (fax)  
[sodell@namanhowell.com](mailto:sodell@namanhowell.com)



Austin | Fort Worth | San Antonio | Waco

Important/Confidential: This communication and any files or documents attached to it are intended only for the use of the person or entity to which it is addressed. It contains information that may be privileged, confidential and exempt from disclosure under applicable law. If you are the intended recipient, please be aware that forwarding this message to others may result in a waiver of these privileges. If you are not the intended recipient of this communication, you are hereby notified that the copying, distribution or other use of this communication is strictly prohibited. If you have received this communication by mistake, please notify the sender immediately by electronic mail and destroy all forms of this communication (electronic or paper). Thank you.

Important/Confidential: This communication and any files or documents attached to it are intended only for the use of the person or entity to which it is addressed. It contains information that may be privileged, confidential and exempt from disclosure under applicable law. If you are the intended recipient, please be aware that forwarding this message to others may result in a waiver of these privileges. If you are not the intended recipient of this communication, you are hereby notified that the copying, distribution or other use of this communication is strictly prohibited. If you have received this communication by mistake, please notify the sender immediately by electronic mail and destroy all forms of this communication (electronic or paper). Thank you.

**EXHIBIT “2”**



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**ANGELA HERNANDEZ,**

**Plaintiff,**

**v.**

**AMICA MUTUAL INSURANCE  
COMPANY,**

**Defendant.**

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**CIVIL ACTION NO. \_\_\_\_\_**

**APPENDIX/INDEX OF STATE COURT PLEADINGS**

**NOTICE OF REMOVAL**

A.	Certified Copy of the State Court Docket Sheet	
B.	Plaintiff's Original Petition	08/25/16
C.	Civil Case Information Sheet	08/25/16
D.	Citation for Amica Mutual Insurance Company	08/25/16
E.	Return of Service for Amica Mutual Insurance Company	09/14/16
F.	Original Answer – General Denial of Defendant Amica Mutual Insurance Company	09/20/16

**DOCKET SHEET**  
**CASE No. DC-16-10473**

ANGELA HERNANDEZ  
 vs.  
 AMICA MUTUAL INSURANCE COMPANY

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 §  
 §








Location: **298th District Court**  
 Judicial Officer: **TOBOLOWSKY, EMILY**  
 Filed on: **08/25/2016**

**CASE INFORMATION**

Case Type: **MOTOR VEHICLE  
 ACCIDENT**

**PARTY INFORMATION**

<b>PLAINTIFF</b>	<b>HERNANDEZ, ANGELA</b>	<i>Lead Attorneys</i> <b>ADEST, DAVE</b> <i>Retained</i> 214-265-7770(W)
<b>DEFENDANT</b>	<b>AMICA MUTUAL INSURANCE COMPANY</b>	<b>O'DELL, MICHAEL SHANE</b> <i>Retained</i> 817-509-2044(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
08/25/2016	NEW CASE FILED (OCA) - CIVIL	
08/25/2016	 ORIGINAL PETITION	
08/25/2016	 CASE FILING COVER SHEET	
08/25/2016	ISSUE CITATION	
08/29/2016	<b>CITATION</b>  AMICA MUTUAL INSURANCE COMPANY Served: 09/02/2016 ESERVE/AM	
08/29/2016	 CITATION ISSUED	
08/29/2016	 CITATION ISSUED	
09/14/2016	 RETURN OF SERVICE AMICA MUTUAL INSURANCE COMPANY ROS	
09/20/2016	 ORIGINAL ANSWER - GENERAL DENIAL Party: DEFENDANT AMICA MUTUAL INSURANCE COMPANY	

DATE	FINANCIAL INFORMATION	
	<b>PLAINTIFF HERNANDEZ, ANGELA</b>	
	Total Charges	295.00
	Total Payments and Credits	295.00
	<b>Balance Due as of 10/7/2016</b>	<b>0.00</b>
08/25/2016	Charge	PLAINTIFF HERNANDEZ, ANGELA 295.00
08/25/2016	CREDIT CARD - Receipt # 54126-2016-DCLK TEXFILE (DC)	PLAINTIFF HERNANDEZ, ANGELA (295.00)

STATE OF TEXAS }  
COUNTY OF DALLAS }

I, FELICIA PITRE, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears on record in my office.

GIVEN UNDER MY HAND AND SEAL of said Court, at office  
in Dallas, Texas, this 7<sup>th</sup> day of October, A.D., 2016.

FELICIA PITRE, DISTRICT CLERK  
DALLAS COUNTY, TEXAS

By *[Signature]* Deputy

1. Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure, Plaintiff designates this cause as Level 2.
2. Pursuant to §30.014 of Texas Civil Practice and Remedies Code, Plaintiff is an individual with the following identifying numbers: TXDL (xxxxxx738) and SSN (xxx-xx-x605).
3. As required by Rule 47(b) of the Texas Rules of Civil Procedure, Plaintiff's counsel states that the damages sought are in an amount within the jurisdictional limits of this Court. As required by Rule 47(c) of the Texas Rules of Civil Procedure, Plaintiff's counsel respectfully asserts that the Plaintiff seeks monetary relief over \$200,000 and no more than \$1,000,000. At this time, no discovery has been conducted and Plaintiff's assertion is made upon knowledge and belief. Plaintiff implicitly trusts the judgement of the good and fair jury as the representatives of our community. Ultimately, Plaintiff will ask a jury of her peers to assess a fair and reasonable amount of money damages as compensation for her injuries.

II.  
**PARTY DEFENDANT**

4. Defendant AMICA MUTUAL INSURANCE COMPANY is a foreign casualty insurance company doing business in Texas, which may be served with process by serving its registered agent, Robert Foss, Jr. at 2277 Plaza Drive, Suite 400, Sugar Land TX 77479, or wherever he may be found.

III.  
**JURISDICTION and VENUE**

5. Venue is proper in Dallas County pursuant to §15.002(a)(1) of the Texas Civil Practice and Remedies Code.

6. Subject matter jurisdiction of this cause rests with this Honorable Court as the amount in controversy exceeds its minimum jurisdictional requirements. *In personam* jurisdiction is satisfied as Defendant has minimum contacts with the great State of Texas and this suit is borne out of said minimum contacts, such that this Court's exercise of personal jurisdiction over Defendant is consistent with all applicable statutory requirements and constitutional guarantees.

IV.  
**BACKGROUND FACTS**

7. On or about 11/17/2014, Plaintiff was traveling southbound on 2700 North Central Expressway in Dallas, Texas. Danielle Parker was traveling directly behind Plaintiff's vehicle. When Plaintiff stopped for heavy traffic ahead, Danielle Parker struck the rear of Plaintiff's vehicle, thereby causing damages to Plaintiff.

V.  
**NEGLIGENCE**

8. Plaintiff would show that at the time of the incident in question, and immediately prior thereto, Danielle Parker, through negligent acts and/or omissions, caused injury and damage to Plaintiff. One or more of the following acts or omissions of Danielle Parker constitutes negligence and was a proximate cause of the incident made the basis of this lawsuit:

- a. Danielle Parker failed to make application, or timely application of the brakes on the vehicle she was operating prior to the incident in question, as a reasonably prudent person would have done under the same or similar circumstances;
- b. Danielle Parker drove her vehicle at a rate of speed greater than that which an ordinary prudent person would have driven under the same or similar circumstances;
- c. Danielle Parker failed to maintain a proper lookout, contrary to what a reasonably prudent person would have done under the same or similar circumstances;
- d. Danielle Parker failed to control speed, contrary to what a reasonably prudent person would have done under the same or similar circumstances; and
- e. Danielle Parker failed to maintain an assured distance between herself and a preceding vehicle, so that, considering the speed of the vehicles, traffic, and the conditions of the highway, Danielle Parker could safely stop without colliding with the preceding vehicle, in violation of Tex. Trans. Code § 545.062.

VI.  
**UNDERINSURED MOTORIST CLAIM**

9. Upon information and belief, Danielle Parker was underinsured for this loss. At the time of the collision, the vehicle driven by Plaintiff was insured under a policy of insurance issued by Defendant Amica, with underinsured motorist coverage. The policy was in effect on the date of the incident made the basis of this lawsuit. Based upon information and belief, the vehicle driven by Danielle Parker was at all times material to this action an “underinsured” motor vehicle. Plaintiff seeks the benefits she is entitled to under this policy:

- A. Plaintiff’s claims for underinsured motorist benefits under Policy Number 950842-1871 (hereafter the Amica Insurance Policy) as a result of a motor vehicle collision which occurred on 11/17/2014 are covered under the Amica Insurance Policy;
- B. The negligence of the underinsured motorist was the proximate cause of Plaintiff’s injuries and damages;

- C. Plaintiff is entitled to recover the following damages from Defendant on her underinsured motorist claim (Claim No. 60001972789) arising under the Amica Insurance Policy:
1. Reasonable and necessary medical treatment in the past;
  2. Reasonable and necessary medical treatment in the future;
  3. Physical pain and suffering and mental anguish in the past;
  4. Physical pain and suffering and mental anguish in the future;
  5. Substantial physical impairment in the past;
  6. Substantial physical impairment in the future;
  7. Loss of earning capacity sustained in the past; and
  8. Loss of earning capacity in the future.

VII.  
**PETITION FOR DECLARATORY RELIEF**

10. Plaintiff asserts her claims under Texas Civil Practice and Remedies Code §37.001, *et seq.* to have her rights, status and other legal relationships under the Insurance Policy she had with Defendant established by a court of competent jurisdiction.

Plaintiff seeks a declaration from the Court that:

- A. Plaintiff's claims (hereafter Claim No. 60001972789) for underinsured motorist benefits under Policy Number 950842-1871 (hereafter the Amica Insurance Policy) as a result of a motor vehicle collision which occurred on 11/17/2014 are covered under the Insurance Policy;
- B. The negligence of the underinsured motorist was the proximate cause of Plaintiff's injuries and damages;
- C. Plaintiff also seeks a declaration determining the amount of benefits to which she is entitled to recover from Defendant, after all applicable set-offs and credits, for each of the following elements of damages covered under the Insurance Policy from Defendant on her Underinsured motorist claim (Claim No. 60001972789) arising under the Insurance Policy:

1. Reasonable and necessary medical treatment in the past;
2. Reasonable and necessary medical treatment in the future;
3. Severe physical pain and suffering and mental anguish in the past;
4. Physical pain and suffering and mental anguish in the future;
5. Substantial physical impairment in the past;
6. Substantial physical impairment in the future;
7. Loss of earning capacity sustained in the past; and
8. Loss of earning capacity in the future.

D. Plaintiff does not seek attorney's fees.

VIII.  
DAMAGES

11. Plaintiff has sustained the following damages as a result of Danielle Parker's negligence:

- a. Physical pain and mental anguish sustained in the past;
- b. Physical pain and mental anguish that, in reasonable probability, Plaintiff will sustain in the future;
- c. Loss of earning capacity sustained in the past;
- d. Loss of earning capacity that, in reasonable probability, Plaintiff will sustain in the future;
- e. Physical impairment sustained in the past;
- f. Physical impairment that, in reasonable probability, Plaintiff will sustain in the future;
- g. Medical care expenses incurred in the past;
- h. Medical care expenses that, in reasonable probability, Plaintiff will incur in the future.



IX.  
**RULE 193.7 NOTICE**

12. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff hereby gives notice to the Defendant that she intends to use all documents exchanged and produced between the parties (including, but not limited to, correspondence, pleadings, records and discovery responses) during the trial of this matter.

X.  
**REQUEST FOR DISCLOSURE**

13. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, you the Defendant are requested to disclose, within 50 days of service of this request, the information or material described in Rule 194.2 (a)(b)(c)(e)(f)(g)(h)(i) (k) and (l).

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be duly cited and served to appear and answer herein, and that upon a final trial of this cause, Plaintiff recovers from Defendant: Plaintiff's actual damages, as set forth above, and in an amount in excess of the minimum jurisdictional limits of this Honorable Court; pre-judgment interest at the highest rate allowed by law; post-judgment interest at the highest rate allowed by law; costs of this Honorable Court; and such other and further relief, at law or in equity, to which Plaintiff may show herself to be justly entitled.

Respectfully submitted,

By: *Dave Adest*  
Dave Adest

Scott B. Frenkel  
State Bar No. 07447100  
[scott@frenkelfirm.com](mailto:scott@frenkelfirm.com)  
Dave Adest  
State Bar No. 00795213  
[dave@frenkelfirm.com](mailto:dave@frenkelfirm.com)

FRENKEL & FRENKEL, L.L.P.  
12700 Park Central Drive  
Suite 1900  
Dallas, Texas 75251-1508  
(214) 333-3333  
(214) 265-9360 (telecopier)

COUNSEL FOR PLAINTIFF

CAUSE NUMBER (FOR CLERK USE ONLY): \_\_\_\_\_

COURT (FOR CLERK USE ONLY): \_\_\_\_\_

STYLED Angela Hernandez v. Amica Mutual Insurance Company

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

<b>1. Contact information for person completing case information sheet:</b> Name: <u>Dave Adest</u> Email: <u>dave@frenkelfirm.com</u> Frenkel & Frenkel LLP Address: <u>12700 Park Central Drive #1900</u> Telephone: <u>(214) 333-3333</u> City/State/Zip: <u>Dallas, TX 75251</u> Fax: <u>(214) 265-9360</u> Signature: <u>[Signature]</u> State Bar No: <u>00795213</u>		<b>Names of parties in case:</b> Plaintiff(s)/Petitioner(s): <u>Angela Hernandez</u> Defendant(s)/Respondent(s): <u>Amica Mutual Insurance Company</u> [Attach additional page as necessary to list all parties]		<b>Person or entity completing sheet is:</b> <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____					
<b>2. Indicate case type, or identify the most important issue in the case (select only 1):</b>									
<b>Civil</b>			<b>Family Law</b>						
<b>Contract</b> <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: <b>Foreclosure</b> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract:		<b>Injury or Damage</b> <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <b>Malpractice</b> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input checked="" type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <b>Product Liability</b> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: <input type="checkbox"/> Other Injury or Damage:		<b>Real Property</b> <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: <b>Related to Criminal Matters</b> <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other:		<b>Marriage Relationship</b> <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <b>Divorce</b> <input type="checkbox"/> With Children <input type="checkbox"/> No Children <b>Other Family Law</b> <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other:		<b>Post-judgment Actions (non-Title IV-D)</b> <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <b>Title IV-D</b> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order <b>Parent-Child Relationship</b> <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child:	
<b>Employment</b> <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment:		<b>Other Civil</b> <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other:		<b>Probate &amp; Mental Health</b> <b>Probate/Wills/Intestate Administration</b> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other:					
<b>3. Indicate procedure or remedy, if applicable (may select more than 1):</b>									
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover					
<b>4. Indicate damages sought (do not select if it is a family law case):</b>									
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input checked="" type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000									

**FORM NO. 353-3 - CITATION  
THE STATE OF TEXAS**

To:

**AMICA MUTUAL INSURANCE COMPANY  
REGISTERED AGENT ROBERT FOSS JR  
2277 PLAZA DRIVE SUITE 400  
SUGAR LAND TX 77479**

**GREETINGS:**

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **298th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **ANGEL HERNANDEZ**

Filed in said Court **25th day of August, 2016** against

**AMICA MUTUAL INSURANCE COMPANY**

For Suit, said suit being numbered **DC-16-10473**, the nature of which demand is as follows:  
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition **REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.  
Given under my hand and the Seal of said Court at office this 29th day of August, 2016.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Altha Miles, Deputy  
ALTHA MILES



**ESERVE**

**CITATION**

**DC-16-10473**

**ANGEL HERNANDEZ**

**vs.**

**AMICA MUTUAL INSURANCE  
COMPANY**

**ISSUED THIS  
29th day of August, 2016**

**FELICIA PITRE  
Clerk District Courts,  
Dallas County, Texas**

By: ALTHA MILES, Deputy

**Attorney for Plaintiff**  
DAVE ADEST  
**DAVE@FRENKELFIRM.COM**  
12700 PARK CENTRAL DRIVE  
SUITE 1900  
DALLAS TX 75251-1508  
214-265-7770

**DALLAS COUNTY  
SERVICE FEES  
NOT PAID**

## OFFICER'S RETURN

Case No. : DC-16-10473

Court No.298th District Court

Style: ANGEL HERNANDEZ

vs.

AMICA MUTUAL INSURANCE COMPANY

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M. Executed at \_\_\_\_\_,  
within the County of \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M. on the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_\_, by delivering to the within named

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by  
me in serving such process was \_\_\_\_\_ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	\$ _____	_____
For mileage	\$ _____	of _____ County, _____
For Notary	\$ _____	By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said \_\_\_\_\_ before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public \_\_\_\_\_ County \_\_\_\_\_

CAUSE NO. DC-16-10473

ANGELA HERNANDEZ  
PLAINTIFF,

V.

AMICA MUTUAL INSURANCE COMPANY  
DEFENDANT.

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IN THE DISTRICT COURT

298TH JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

RETURN OF SERVICE

Received by FIS: August 29, 2016 at 3:20 o'clock P.M.

☒ Citation, Plaintiffs' Original Petition and Petition for Declaratory Relief

Executed on: September 2, 2016 at 11:15 o'clock A.M.

Executed at: 2277 Plaza Dr., Suite 400, Sugarland, TX 77479 within the county of Fort Bend by delivering to AMICA MUTUAL INSURANCE COMPANY BY DELIVERING TO LOYDA RODRIGUEZ, SENIOR CLAIMS SUPERVISOR AND AUTHORIZED TO ACCEPT, in person, a true copy of the above specified civil process having first endorsed on such copy the date of delivery.

I am over the age of (18) eighteen years, not a party to this case, nor am I related to, employed by, or otherwise connected to any party or any party's attorney in this case; and I have no interest in the outcome of the above numbered suit. I attest the foregoing instrument has been executed by me in this case pursuant to the Texas Rules of Civil Procedure and that I am of sound mind and have never been convicted of a felony or misdemeanor involving moral turpitude.

Sworn to this 12 day of September 2016.

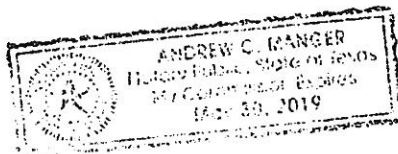
Edna Ingram  
Edna Ingram, SCH8730, exp. 6/30/17  
ctroutz@fisinc.us

VERIFICATION

THE STATE OF TEXSS

Before me, a notary public, on this day personally appeared the above name authorized person, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct. Given under my hand and seal on this the 12 day of September 2016

[Signature]  
Notary Public



**FORM NO. 353-3 - CITATION  
THE STATE OF TEXAS**

To:

**AMICA MUTUAL INSURANCE COMPANY  
REGISTERED AGENT ROBERT FOSS JR  
2277 PLAZA DRIVE SUITE 400  
SUGAR LAND TX 77479**

**GREETINGS:**

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **298th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **ANGELA HERNANDEZ**

Filed in said Court **25th day of August, 2016** against

**AMICA MUTUAL INSURANCE COMPANY**

For Suit, said suit being numbered **DC-16-10473**, the nature of which demand is as follows:  
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition **REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County Texas.  
Given under my hand and the Seal of said Court at office this 29th day of August, 2016.

ATTEST: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County, Texas

By           /s/ Altha Miles          , Deputy  
**ALTHA MILES**



**ESERVE**

**CITATION**

**DC-16-10473**

**ANGELA HERNANDEZ  
vs.  
AMICA MUTUAL INSURANCE  
COMPANY**

**ISSUED THIS  
29th day of August, 2016**

**FELICIA PITRE  
Clerk District Courts,  
Dallas County, Texas**

By: **ALTHA MILES**, Deputy

**Attorney for Plaintiff  
DAVE ADEST  
DAVE@FRENKELFIRM.COM  
12700 PARK CENTRAL DRIVE  
SUITE 1900  
DALLAS TX 75251-1508  
214-265-7770**

**DALLAS COUNTY  
SERVICE FEES  
NOT PAID**

**CAUSE NO. DC-16-10473**

**ANGELA HERNANDEZ**  
**Plaintiff,**

**V.**

**AMICA MUTUAL INSURANCE**  
**COMPANY**

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**IN THE DISTRICT COURT**

**298<sup>th</sup> JUDICIAL DISTRICT**

**DALLAS COUNTY, TEXAS**

**ORIGINAL ANSWER OF AMICA MUTUAL INSURANCE COMPANY**

**NOW COMES** Defendant, Amica Mutual Insurance Company, named Defendant in the above-entitled and numbered cause, and files this Original Answer, and shows the Court:

**GENERAL DENIAL**

Defendant, Amica Mutual Insurance Company denies each and every allegation of Plaintiff's Original Petition and demands strict proof thereof as required by the Texas Rules of Civil Procedure.

**PRAYER**

Defendant, Amica Mutual Insurance Company, the Court, after notice and hearing or trial, enters judgment in favor of Defendant Amica Mutual Insurance Company, award Defendant Amica Mutual Insurance Company the costs of court, and such other and further relief as Defendant Amica Mutual Insurance Company may be entitled to in law or in equity.



Respectfully submitted,

NAMAN, HOWELL, SMITH & LEE, PLLC  
Fort Worth Club Building  
306 West 7<sup>th</sup> Street, Suite 405  
Fort Worth, Texas 76102  
(817) 509-2044  
FAX (817) 509-2060  
E-Mail: [sodell@namanhowell.com](mailto:sodell@namanhowell.com)

BY: 

**MICHAEL SHANE O'DELL**  
State Bar No. 24065835  
**ATTORNEY FOR DEFENDANT**  
**AMICA MUTUAL**  
**INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

This certifies that on September 20, 2016 a true and correct copy of the foregoing was served as follows:

Via Email - [dave@frenkelfirm.com](mailto:dave@frenkelfirm.com)  
Dave Adest  
Frenkel & Frenkel, L.L.P.  
12700 Park Central Drive, Suite 1900  
Dallas, TX 75251-1508

  
Michael Shane O'Dell